

### **REMARKS**

Claims 1 – 20 were pending in this application.

Claims 18-20 were withdrawn from consideration.

Claims 1-17 were rejected.

Claims 1, 4-7 and 12-15 were amended.

### **II.35 USC 102(e) Rejections**

**Claims 1-17 were rejected under 35 USC 102(b) as being anticipated by U.S. Patent No. 5,456,351 to Johnson.**

The rejected claims include two pending independent claims, which are Claim 1 and Claim 12. These claims have been amended and are believed to be clearly distinguishable over the cited prior art references, as is explained below.

#### **Claim 1**

Claim 1 sets forth a method of administering a biologically beneficial compound. The method requires the step of providing a beverage container having a cap assembly through which liquid in the beverage container is drunk. The cap assembly has at least one exterior surface that passes into a drinker's mouth when liquid is drunk through the cap assembly.

A mass of a biologically beneficial compound is formed on an exterior surface of the cap assembly. The mass of biologically beneficial compound passes into the mouth of a person drinking from the beverage container through the cap assembly.

Using this method, it will be understood that a beverage container cap is provided that has a biologically beneficial compound disposed on the exterior of the cap. In this manner, when the

cap is placed in the mouth, the biologically beneficial compound is placed in the mouth. The biologically beneficial compound can then be consumed. However, prior to being placed within the mouth, the biologically beneficial compound is isolated from the liquid that passes through the cap.

**The Johnson patent** discloses a lid for a container that can be peeled off the container. The lid has two halves that define a pocket. Within the pocket can be kept a secondary edible product. To use the device, the lid is partially peeled open to remove the secondary edible product. The lid is then completely peeled away to expose the contents of the container. See Johnson, the method sequence represented by Fig. 2, Fig. 3 and Fig. 4 with accompany description.

The Johnson patent does not disclose or suggest the step of providing a beverage container having a cap assembly through which liquid from the beverage container is drunk. Rather, in the Johnson patent, the lid must be removed. Nothing is consumed through the lid.

The Johnson patent does not disclose or suggest the step of providing a cap assembly having at least one exterior surface that passes into a drinker's mouth when liquid is drunk through the cap assembly. As has been stated, the Johnson lid must be removed from the container before anything can be drunk from the container.

The Johnson patent does not disclose or suggest the step of forming a mass of a biologically beneficial compound on an exterior surface the cap assembly. Rather, in the Johnson patent, a secondary object is merely held within a pocket inside the lid.

Lastly, the Johnson patent does not disclose or suggest the step of having the mass of

biologically beneficial compound pass into the mouth of a person drinking with the cap assembly. Rather, The Johnson patent clearly shows that the secondary object is completely removed from the lid before it is used.

As a result, it can be seen that Johnson patent fails to show a single method step set forth by Claim 1. The Johnson patent therefore clearly does not anticipate the matter of Claim 1 and the 35 USC 102 rejection should be withdrawn.

#### Claim 12.

Claim 12 sets forth a method similar to Claim 1. In the method of Claim 12, a bottle containing a consumable liquid is provided. A cap assembly for the bottle is also provided. The cap assembly can be selectively opened and the consumable liquid drunk from the bottle through the cap assembly.

A consumable material is provided on an exterior surface of the cap assembly. The consumable material passes into the mouth when the liquid is drunk directly from the cap assembly.

The Johnson patent does not disclose or suggest the step of providing a bottle having a cap assembly through which liquid is drunk. Rather, in the Johnson patent, the lid must be removed. Nothing is consumed through the lid.

The Johnson patent does not disclose or suggest the step of providing a cap assembly having at least one exterior surface that passes into a drinker's mouth when liquid is drunk through the cap assembly. As has been stated, the Johnson lid must be removed from the container before anything can be drunk from the container

The Johnson patent does not disclose or suggest the step of providing consumable material on an exterior surface the cap assembly. Rather, in the Johnson patent a secondary object is merely held within a pocket inside the lid.

Lastly, the Johnson patent does not disclose or suggest the step of having the consumable material pass into the mouth of a person drinking from the beverage container through the cap assembly.

As a result, it can be seen that Johnson patent fails to show or suggest the method steps set forth by Claim 12. The Johnson patent therefore clearly does not anticipate the matter of Claim 12 and the 35 USC 102 rejection should be withdrawn.

**Claims 1-17 were rejected under 35 USC 102(e) as being anticipated by U.S. Patent No. 6,527,109 to Schoo.**

The Schoo patent discloses a cap for a beverage bottle that has a liquid-dissolvable disk that is held within the structure of the cap. The disk dissolves in the beverage when the beverage bottle is shaken. See Abstract of Schoo patent.

**Claim 1**

As applied to the wording of pending Claim 1, the Schoo patent does not disclose or suggest the step of forming a mass of a biologically beneficial compound on an exterior surface the cap assembly. Rather, in the Schoo patent, dissolvable disk is disposed on the interior of the

cap and dissolves with the beverage when the beverage is shaken. This is directly opposite to the present invention that attempts to isolate the biologically beneficial material from the beverage until it is consumed.

Furthermore, the Schoo patent does not disclose or suggest the step of having the mass of biologically beneficial compound pass into the mouth of a person drinking with the cap assembly. Rather, the Schoo patent clearly shows that the dissolvable disk is inside the cap and does not have any direct contact with the drinker's mouth.

As a result, it can be seen that Schoo patent fails to show or suggest the method steps set forth by Claim 1. The Schoo patent therefore clearly does not anticipate the matter of Claim 1 and the 35 USC 102 rejection should be withdrawn.

#### Claim 12

As applied to the wording of pending Claim 12, the Schoo patent does not disclose or suggest the step of providing consumable material on an exterior surface the a cap assembly. Rather, in the Schoo patent, a dissolvable disk is disposed on the interior of the cap and dissolves with the beverage when the beverage is shaken

Furthermore, the Schoo patent does not disclose or suggest the step of having the consumable material pass into the mouth of a person drinking from the beverage container through the cap assembly. Rather, the Schoo patent clearly shows that the dissolvable disk is inside the cap and does not have any direct contact with the drinker's mouth.

As a result, it can be seen that Schoo patent fails to show or suggest the method steps set forth by Claim 12. The Schoo patent therefore clearly does not anticipate the matter of Claim 12

and the 35 USC 102 rejection should be withdrawn.

## **II. 35 USC 102(e) Rejections**

**Claims 1-17 were rejected under 35 USC 103(a) as being unpatentable in view of U.S. Patent No. 5,456,351 to Johnson.**

The rejected claims include two pending independent claims, which are Claim 1 and Claim 12. These claims have been amended and are believed to be clearly distinguishable over the cited prior art references, as is explained below.

### **Claim 1**

Claim 1 sets forth a method of administering a biologically beneficial compound. The method requires the step of providing a beverage container having a cap assembly through which liquid in the beverage container is drunk. The cap assembly has at least one exterior surface that passes into a drinker's mouth when liquid is drunk through the cap assembly.

A mass of a biologically beneficial compound is formed on an exterior surface of the cap assembly. The mass of biologically beneficial compound passes into the mouth of a person drinking from the beverage container through the cap assembly.

Using this method, it will be understood that a beverage container cap is provided that has a biologically beneficial compound disposed on the exterior of the cap. In this manner, when the cap is placed in the mouth, the biologically beneficial compound is placed in the mouth. The biologically beneficial compound can then be consumed. However, prior to being placed within the mouth, the biologically beneficial compound is isolated from the liquid that passes through the cap.

**The Johnson patent** discloses a lid for a container that can be peeled off the container. The lid has two halves that define a pocket. Within the pocket can be kept a secondary edible product. To use the device, the lid is partially peeled open to remove the secondary edible product. The lid is then completely peeled away to expose the contents of the container. See Johnson, the method sequence represented by Fig. 2, Fig. 3 and Fig. 4 with accompany description.

The Johnson patent does not disclose or suggest the step of providing a beverage container having a cap assembly through which liquid from the beverage container is drunk. Rather, in the Johnson patent, the lid must be removed. Nothing is consumed through the lid.

The Johnson patent does not disclose or suggest the step of providing a cap assembly having at least one exterior surface that passes into a drinker's mouth when liquid is drunk through the cap assembly. As has been stated, the Johnson lid must be removed from the container before anything can be drunk from the container.

The Johnson patent does not disclose or suggest the step of forming a mass of a biologically beneficial compound on an exterior surface the cap assembly. Rather, in the Johnson patent, a secondary object is merely held within a pocket inside the lid.

Lastly, the Johnson patent does not disclose or suggest the step of having the mass of biologically beneficial compound pass into the mouth of a person drinking with the cap assembly. Rather, The Johnson patent clearly shows that the secondary object is completely removed from the lid before it is used.

As a result, it can be seen that Johnson patent fails to show a single method step set forth

by Claim 1. The Johnson patent therefore clearly does not disclose the matter of Claim 1 and the 35 USC 103 rejection should be withdrawn.

Claim 12.

Claim 12 sets forth a method similar to Claim 1. In the method of Claim 12, a bottle containing a consumable liquid is provided. A cap assembly for the bottle is also provided. The cap assembly can be selectively opened and the consumable liquid drunk from the bottle through the cap assembly.

A consumable material is provided on an exterior surface of the cap assembly. The consumable material passes into the mouth when the liquid is drunk directly from the cap assembly.

The Johnson patent does not disclose or suggest the step of providing a bottle having a cap assembly through which liquid is drunk. Rather, in the Johnson patent, the lid must be removed. Nothing is consumed through the lid.

The Johnson patent does not disclose or suggest the step of providing a cap assembly having at least one exterior surface that passes into a drinker's mouth when liquid is drunk through the cap assembly. As has been stated, the Johnson lid must be removed from the container before anything can be drunk from the container

The Johnson patent does not disclose or suggest the step of providing consumable material on an exterior surface the cap assembly. Rather, in the Johnson patent a secondary object is merely held within a pocket inside the lid.

Lastly, the Johnson patent does not disclose or suggest the step of having the consumable



material pass into the mouth of a person drinking from the beverage container through the cap assembly.

As a result, it can be seen that Johnson patent fails to disclose the method steps set forth by Claim 12. The Johnson patent therefore clearly does not anticipate the matter of Claim 12 and the 35 USC 102 rejection should be withdrawn.


### **III. DRAWINGS**

. Formal drawings will be filed upon receipt of the Notice of Allowance for this application.

### **IV. SUMMARY**

Having fully distinguished the pending claims over the cited art, this application is believed to stand in condition for allowance. However, if the Examiner is of the opinion that such action cannot be taken, the Examiner is requested to call the applicant's attorney at (215) 321-6772 in order that any outstanding issues may be resolved without the necessity of issuing a further Office Action.

Respectfully Submitted,



Eric A. LaMorte

Reg. No. 34,653

Attorney For Applicant

LaMorte & Associates  
P.O. BOX 434  
Yardley, PA 19067  
(215) 321-6772